NO. 48654-7-II

COURT OF APPEALS STATE OF WASHINGTON

DIVISION II

MARVIN OLSEN and YONG IM OLSEN, husband and wife, Appellants

v.

H. GARY WALLIS and MONIQUE A. WALLIS, individually and the marital community comprised thereof, Respondents.

BRIEF OF APPELLANTS

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Assignments of Error

The trial Court erred by confirming the arbitrator's award and entering final judgment. Specifically the Court should not have confirmed an award or entered judgment which:

1. Divested the Appellants, hereinafter Olsen, from all ownership of the office property which is the subject of this partition action;
2. Left the parties as co-owners of the rental property which is the subject of this partition action;
3. Denied Olsen a share of the rent on the rental property from 2000 to 2012.
4. Denied interest on rent as it became owed, as liquidated amounts.
5. Denied an award of legal fees to Plaintiff because plaintiff prevailed on the issue of adverse possession.

Issues

1. Whether the Court should confirm an arbitrator's award in a partition action where the arbitrator was facially, grossly and fundamentally unfair or arbitrary and capricious?
2. Whether an equal co-tenant should receive half of the net rent from a rental property?
3. Whether interest should be awarded on rent as it became due?
4. Whether attorneys fees should have been awarded to Olsen's as the prevailing party in the case for adverse possession as argued by Respondents, hereinafter Wallis, pursuant to RCW 7.28.083(3)?
5. Whether attorneys fees should be awarded for this appeal?

STATEMENT OF THE CASE

This case was started as an action for partition of two parcels of land co-owned by the parties. CP 1 - 4 It was an office building and an adjacent rental home. CP 1 - 4 The parties stipulated to arbitrate the

matter, subject to appeal for fraud or violation of constitutionally protected issues of denial of due process. CP 13 - 14

An arbitration hearing was held on August 25, 2015. CP 18

The parties, both lawyers, formed a law partnership sometime before 1978 and in approximately 1978 a Real Estate Contract was entered into between the parties wherein Olsen sold to Wallis a half interest in the office property located at 9615 Bridgeport Way in Lakewood, WA and rental property located at 5820 Mt. Tacoma Ave. SW. In 1992 a Statutory Warranty Deed was recorded recognizing Wallis' fulfillment of financial obligation. CP 18 - 19

Prior to the Statutory Warranty Deed being entered Olsen put a mortgage on the office building in the amount of $1000,000 to secure a private loan from James B. Nanney. CP 19

The parties jointly made payment to Nanney on the Note until Olsen's issues with the bar association began in approximately 1999. Those issues ultimately culminated with Olsen being disbarred in 2000. Mr. Wallis was also reprimanded in 2000 for failure to properly monitor the firm trust account. CP 19

Mr. Wallis alleges Mr. Olsen abandoned the property in 2000 after being disbarred. Mr. Olsen contends he was not able to practice or work

at that location because of being disbarred but did not abandon his interest in the properties. CP 54

The parties dispute the nature of any conversation that occurred but agree Mr. Olsen probably only visited the office approximately three to five times to check on the building and pick up some property. CP 54

The Note was transferred from Nanney to another creditor. The principal balance at the time of transfer was approximately $52,000.00. Wallis paid that off over time through July 2003 CP 67. Olsen paid nothing toward the payment of the Note nor any of the expenses on the properties going forward. Olsen received the majority of the benefit from the $100.000.00 borrowed. CP 54

The lawsuit was filed December, 2012 suing for partition of all the land and judgment for back owed rents. CP 1 - 4 and 55

The arbitrator found in Clerk's papers 55 through 59:

The case law as cited by both parties is controlling. Yakavonis v. Tilton, 93 Wn.App. 305, 968 P.2d 908 (1998); Cummings v. Anderson, 94 Wn.2d 136, 614 P.2d 1283 (1980); and Fulton v. Fulton 57 Wn.2d 331, 357 P.2d 169 (1960). CP 55

Olsen was not ousted from the office building until December, 2012 when this matter was filed. If Olsen was not ousted from the office building until 2012, then pursuant to *Fulton* at pgs. 335 and 336, he

remained as "a tenant in common . . . who has enjoyed occupancy of the common premises or some part thereof is not liable to pay rent to the others therefor, or to account to them respecting the reasonable value of his occupancy, here they have not been ousted or excluded nor their equal rights denied, and no agreement to pay for occupancy, or limiting or assigning rights of occupancy, has been entered into." CP 55

Title to the office building and land will have title granted to Wallis effective the date this Order is filed and Olsen will be awarded as his share of the rent the amount accumulated from December 1, 2012 through September 2015. Rent shall be calculated at $1,000 per month, one-half of which shall be awarded to Olsen. CP 55

Title to the office building including property shall be quieted in the name of Wallis because the facts presented show he paid all of the expenses of the office building and property and paid the outstanding debt owed thereon, originally owed to Nanney, of which Olsen enjoyed the majority benefit. CP 55

According to the Arbitrator's Decision on Motion for Modification and/or Clarification the Arbitrator ruled and the Court ordered:

A. Interest on judgment will begin once the order and resulting judgment are filed with the court. Judgment interest shall accrue at the statutory judgment interest until paid in full. CP 58 and 97 - 98

B. Expenses associated with the building from December 2012 through the date of this order is filed with the court shall be shared 50% by Plaintiffs and 50% by Defendants. Plaintiff's 50% share of said expenses shall be deducted from any amounts owed by Defendants to Plaintiffs. The expenses assessed shall only be those incurred for repairs which improved the structure of the office building or were needed to protect the building from harmful elements. The expenses must be fully and completely documented which would include at a minimum any bills received for services utilized, costs of materials and labor and proof of payment. Ordinary wear and tear costs of occupancy are not to be included as part of the 50% division of expenses. CP 58 - 59 and 97 - 98

C. * * *

D. Defendant Wallace shall act as the Managing Agent for the rental property held as tenants-in-common. The parties shall abide by all of the requirements a tenants-in-common relationship establishes. CP 59 and 97 - 98

ARGUMENT

Mr. Olsen's appeal is based only on the facts as set forth in the arbitrator's award. The fundamental unfairness and deprivation of property rights is facially present. The arbitrator, and therefore the Court:

- divested him of the office property
- denied him any compensation for Mr. Wallis' profitable commercial use of the office property for twelve years even though Mr.. Olsen could not use the property and at least nine years from the payoff of the Nanney note
- left him a co-owner in this partition action for the rental property
- left Mr. Wallis in charge of all aspects of the rental property
- deprived Mr. Olsen of all of the rent on the rental property for twelve years
- deprived Mr. Olsen of any interest on the rental income received by Mr. Wallis for twelve years plus the time between the arbitration and entry of a judgment on both properties
- refused to award legal fees for a prevailing in a defense of an adverse possession claim

Mr. Olsen never sought an onerous result for Mr. Wallis. The Olsen proposal was to leave Wallis in possession of the office until he wanted to retire. Mr. Olsen sought fairness. Please read his Memorandum for Arbitration which are Clerk's Papers 66 - 88. The result however was that Mr. Olsen lost half o his land, most of his ownership rights and was awarded a mere fraction of what would have been fair. Mr. Olsen does not challenge the finding there was no ouster. Mr. Wallis did not oust Mr.

Olsen. There is no cross appeal challenging this finding. The parties could not however occupy the property together. Without a finding of adverse possession the only basis to divest Mr. Olsen is the Nanney note of $52,000. This was paid off in July 2003. The unfairness and gross denial of Mr. Olsen's property rights are facially present however because even considering Mr. Wallis having paid the Nanney note, the other amounts Wallis should have owed Olsen, with the huge and profitable commercial benefit to Wallis of the office building use, it is grossly and fundamentally unfair to give Wallis such a windfall.

The ruling is arbitrary and capricious. The stipulation the parties signed for arbitration limited the arbitration if there was a denial of due process. CP 13 This is in accord with the Constitution of the State of Washington which says in Article One, Section Three: "PERSONAL RIGHTS No person shall be deprived of life, liberty, or property, without due process of law." The parties' agreement to arbitrate and the most basic law both proscribe the Court from taking Mr. Olsen's property if the action is arbitrary and capricious. An arbitrary and capricious decision is a violation of substantive due process. *Sintra, Inc. v. City of Seattle,* 131 Wn.2d 640, 935 P.2d 555 (1997) It is the combination of adverse consequences to Olsen and windfall results to Wallis of the arbitration ruling (and therefore the Court's Judgment) which render it arbitrary and

capricious. The denial of the share of the rent on the rental property, plus the divestment of the office building, plus the denial of rent on the office building while Olsen could not use it (after the Nanney note was paid), plus the ruling on the interest on rent, are, together fundamentally and grossly unfair to Mr. Olsen. These rulings are punitive to Mr. Olsen while giving Mr. Wallis a windfall. If the ruling denied only one of these items perhaps it could be argued that in the exercise of discretion the award was one-sided but not capricious. As it stands the ruling and judgment are arbitrary and capricious and should be remanded for a trial on the merits.

Mr. Wallis should owe Mr. Olsen for Mr. Wallis' commercial use of the office building. Olsen could not legally occupy the same space with Wallis since he was a disbarred lawyer. This was a problem for Mr. Wallis as well as Mr. Olsen. In *Fulton, supra,* at 334 the Court said:

> The rule of law adhered to in a great majority of American jurisdictions with regard to a cotenant's liability for personal use and occupancy of common property is set forth in an annotation in 51 A.L.R. (2d) at p. 413 as follows:
> "... absent statute construed to work a different result ... a tenant in common, joint tenant, or coparcener who has enjoyed occupancy of the common premises or some part thereof is not liable to pay rent to the others therefor, or to account to them respecting the reasonable value of his occupancy, *where they have not been ousted or excluded nor their equal rights denied, and no agreement to pay for occupancy, or limiting or assigning rights of occupancy, has been entered into.*" [Italics ours {the Court's}]
> Appellant relies principally on *McKnight v. Basilides,* 19 Wn. (2d) 391, 143 P. (2d) 307 (1943), to support the proposition that

> the above-stated rule of law has been rejected in this state. The majority opinion in the *McKnight* case contains language which seemingly bears out appellant's analysis. At page 407, this court indicated its apparent disapproval of the general rule, saying:
> ""... There is no sound basis for the general rule of law. No practical or reasonable argument can be advanced for allowing one in possession to reap a financial benefit by occupying property owned in common without paying for his personal use of that part of the property owned by his cotenants...."""
>
> We are of the opinion, however, that, despite the dictum quoted above, the holding in the *McKnight* case is thoroughly consistent with the so-called majority rule. In that case, the defendant-appellant was the sole occupant of property owned in common, to the exclusion of his cotenants. By reason of this sole and exclusive occupancy and control of common property, the appellant in the *McKnight* case was held accountable for the fair rental value of the property, specifically for that portion of the rental value in excess of his legal interest. The *McKnight* case falls squarely within the exception stated in the italicized portion of the above-quoted statement of the majority rule (51 A.L.R. (2d) at p. 413), because the cotenants in that case were, in fact, *excluded from the common property and their equal rights therein were denied by the appellant.* [italics added]

In *Cummings v. Anderson,* 94 Wn.2d 136, 614 P.2d 1283 (1980) the Court said: ". . . where the property is not adaptable to double occupancy, the mere occupation of the property by one cotenant may operate to excluded the other See Annot., 51 A.L.R. 2d at 443." The Bar Association rules precluded Mr. Wallis from sharing space with a suspended or disbarred lawyer in the space he previously occupied as a practicing lawyer. There would have been consequences to Olsen by being in that office, contrary to his disbarment. Such an arrangement would have been an ethical violation for Mr. Wallis more grave than the

consequences Olsen would have suffered had Olsen attempted to occupy, even doing non-lawyer things. The parties and any objective observer (such as the Bar Association) would obviously contemplate a parade of people wanting to have contact with Olsen over legal issues which he would be legally prohibited from discussing. Clearly this rises to the standard of the property being not adaptable to Olsen's and Wallis' double occupancy of the property. These circumstances are clearly such that Mr. Olsen was excluded from use and occupancy of the property. Rent owing from 2000 to December, 2012, at the most meager amount, would clearly grossly exceed Mr. Wallis' claim for paying the $52,000 owing to Nanny plus half of the taxes, insurance and minimal expenses of the building. Mr. Wallis never refuted Mr. Olsen was precluded from jointly occupying the office building. When rental income for the rental property was denied to Mr. Olsen from 2000 to 2012 at the unchallenged rate of $850 per month, the absurdity and unfairness to Olsen are more obvious than a bull in a china shop. There are 155 months at issue and at half the rent the amount is $65,875 that Wallis received over what Olsen received. This is only for the rental house! Even if the rent were much less, when combined with the other rulings Mr. Wallis is getting a windfall while Mr. Olsen is being treated punitively. The rent on the rental home alone far exceeds the amount paid to Nanney and the expenses of the rental home.

Even if Mr. Wallis had presented any evidence of expenses it clearly would not rise to the level of a justification of divesting Mr. Olsen from the office property.

Furthermore, Mr. Wallis never made claim to Mr. Olsen for any payments Mr. Wallis paid to Mr. Nanney. He voluntarily made those payments and never even alleged the payments were in any way the responsibility of Mr. Olsen. The point is Mr. Wallis' voluntary payment to Nanney without even a mention to Mr. Olsen about them are more consistent with those payments being in lieu of rent to Mr. Olsen than any other theory. Those payments rise to the level of an agreement to pay for occupancy. This invokes the exception to the rule and Olsen should have been paid rent even before the ouster. Mr. Wallis' payments are objective evidence of an agreement and responsibility to compensate Mr. Olsen while Mr. Wallis exclusively occupied the property. It was after the Nanney note was paid that Wallis' refusal to compensate Olsen became avaricious.

There is no authority for the proposition Mr. Wallis could collect rent on the rental house and deny accounting for half of that to Mr. Olsen. In *Yakavonis vs. Tilton* 93 Wn.App. 305, 968 P.2d 908 (1998) the Court specifically noted that with regard to the rental property the parties had an accounting of the rents received. There is no authority to argue property

occupied by a tenant could be adversely possessed by Mr. Wallis. Mr. Wallis did not occupy the rental house, the tenants occupied it. Though that appeared to be Mr. Wallis' argument there was never any authority or logic to support it. The fact is Mr. Olsen was denied his share of the rent for the rental house for twelve years. The insult on the injury is losing all ownership of the office building, the more valuable of the two properties (as measured by the rent set by the Arbitrator). In *Cummings v. Anderson,* 94 Wn.2d 136, 143, 614 P.2d 1283 (1980) the Court stated the rule: "We are mindful that tenants in common have certain fiduciary duties toward each other. See 4A R. Powell, The Law of Real Property P 605 (P. Rohan ed. 1979)." Quoting, *Cummings v. Anderson*, the case of *Douglas v. Jepson,* 88 Wn.App 342, 349, 945 P.2d 244 (1997) the court said there was a fiduciary relationship between co-tenants of property " . . . where one co-tenant attempts to take an inequitable advantage of another co-tenant. See *Cummings v. Anderson,* 94 Wash.2d 135, 143 n. 3, 614 P.2d 1283 (1980)" Finally, although Olsen and Wallis are cotenants, they can also be deemed as partners in all of the real estate, especially as regards the rental house. The following should be an applicable standard to apply in this case:

> **RCW 25.05.165 General standards of partner's conduct.**
> (2) A partner's duty of loyalty to the partnership and the other partners is limited to the following:

> (a) To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity.

In *RSD AAP, LLC v. Alyeska Ocean, Inc.*, 190 Wn. App. 305, 358 P.3d 483 (2015) the Court stated the rule:

> Partners are accountable to each other and the partnership as fiduciaries. *Bishop of Victoria Corp. Sole v. Corporate Bus. Park, LLC*, 138 Wn.App. 443, 457, 158 P.3d 1183 (2007). One of the duties owed as a fiduciary is the duty of loyalty, which includes refraining from self-dealing, secret profits, and conflicts of interest. Bishop, 138 Wn.App. at 457 (citing RCW 25.05.165(2)(a)-(c)). A partner also has an obligation of good faith and fair dealing

In the State of Washington this fiduciary duty is a fundamental concept of any relationship where people are sharing property or income. Mr. Wallis' refusal to pay the share of the rental property income and to also make a claim of a sole right to ownership of the office building cannot be supported when one considers the fundamental import of a basic rule of accountability and responsibility as referred to in these cases and statutory authority memorializing basic ideas of honesty and fair dealing in a fiduciary relationship.

None of the expenses of the law firm or alleged losses to Mr. Wallis regarding the law firm were a basis for the windfall to Wallis. The Arbitrator excluded those from the ruling. However, it seems some form

of sympathy for Mr. Wallis or some form of anger toward Mr. Olsen may be at work regarding these issues. Making a ruling on facts not part of a proceeding is part of what makes the decision arbitrary, capricious and grossly unfair.

In *Friend v. Friend,* 92 Wn.App. 799, 964 P.2d 1219 (1998), *review denied* 137 Wn.2d 1030, 980 P.2d 1283 (1999) this Court said:

> The partition statute gives tenants in common the right to partition their property, either in kind or by sale. See *Huston v. Swanstrom,* 168 Wash. 627, 631, 13 P.2d 17 (1932). Partition in kind is favored wherever practicable. *Williamson Inv. Co. v. Williamson,* 96 Wash. 529, 535, 165 P. 385 (1917); *Hegewald v. Neal,* 20 Wash.App. 517, 522, 582 P.2d 529, review denied, 91 Wash.2d 1007 (1978). If partition in kind is not practicable, the statute authorizes a court to order partition by sale. That is, the owner's right to separate ownership of property is guaranteed by statute, "even though it can be accomplished only through the channel of a sale. " Huston, 168 Wash. at 631, 13 P.2d 17 (emphasis added). Thus, a court may order partition by sale, whether or not the parties request it, provided satisfactory evidence demonstrates that the property or any part of it cannot be divided without great prejudice

In *Cummings v. Anderson,* 22 Wn.App. 634, 638, 590 P.2d 1297 (1979) the Court said: "If a court cannot divide the property equally, the property should be sold and the proceeds divided equally . . . [citation omitted]" The arbitrator and the Court in the case at bar has seemingly done the opposite of what is contemplated by a partition action. While it is recognized the Court has discretion, it is bizarre with the history of these parties as found by the Arbitrator, the parties are to remain as co-tenants,

tenants-in-common, for one of the parcels while one of parcels was not partitioned at all but simply awarded to one party free and clear of any claim by the other. This strange result seems far beyond the grant of an exercise of discretion in a partition action. They are acts beyond the authority of the arbitrator. Therefore this case should be remanded for a new trial. In *Cummings v. Budget Tank Removal & Envtl. Servs., LLC,* 163 Wn.App. 379, 389, 260 P.3d 220 (2011) the Court said:

> Where a final award sets forth the arbitrator's reasoning along with the actual dollar amounts awarded, any issue of law evident in the reasoning may also be considered as part of the face of the award. *Estate of Norberg,* 101 Wash.App. at 125, 4 P.3d 844; *Tolson v. Allstate Ins. Co.,* 108 Wash.App. 495, 32 P.3d 289 (2001). In *Tolson,* we remanded an arbitration award for clarification where there was an ambiguity in the arbitrator's letter, making the court's findings potentially inconsistent with the rest of the award.

Also, an award that demonstrates facial legal error indicates the arbitrator exceeded their power. *Broom v. Morgan Stanley DW Inc.,* 169 Wn.2d 231 237, 236 P.3d (2010) Mr. Olsen argues these principles apply directly and exactly to his case. There is a finding of no pre 2012 ouster, and therefore no adverse possession, but yet the rest of the award regarding rent, no interest, the divesture of Mr. Olsen from one of the properties, and leaving the parties as co-owners in the other property but without an award of rent until an ouster happened, everything is internally inconsistent to the detriment of Olsen with a windfall to Wallis.

The rule regarding interest was stated in *Hyundai vs. Magana*, 141 Wn.App. 495, 170 P.3d 1165 (2007) *reversed on other grounds,* 167 Wn.2d 570, 220 P.3d 191 (2009):

> "Prejudgment interest awards are based on the principle that a defendant 'who retains money which he ought to pay to another should be charged interest upon it.'" *Hansen v. Rothaus*, 107 Wn.2d 468, 473, 730 P.2d 662 (1986) (quoting *Prier v. Refrigeration Eng'g Co.*, 74 Wn.2d 25, 34, 442 P.2d 621 (1968)); *see also Jones v. Best* , 134 Wn.2d 232, 242, 950 P.2d 1 (1998). Prejudgment interest is awardable when a claim is liquidated or readily determinable, as opposed to an unliquidated claim. *Hansen*, 107 Wn.2d at 468. And a liquidated claim is one "where the evidence furnishes data which, if believed, makes it possible to compute the amount with exactness, without reliance on opinion or discretion." *Prier*, 74 Wn.2d at 32. Finally, this court reviews a trial court's award of prejudgment interest for an abuse of discretion. *Colonial Imports v. Carlton N.W., Inc.* , 83 Wn. App. 229, 921 P.2d 575 (1996).

The rental income on the rental house was actually received by Mr. Wallis. For various reasons (not challenged by either party) the arbitrator, and therefore the Court, found it to be a flat $850 per month. There is simply no justification to deny Mr. Olsen interest on the rental income actually received. The Arbitrator, and therefore the Court, also found the rental amount on the office building ($1,000) per month. This likewise is not challenged by either party for the purposes of this appeal. Therefore the amount is liquidated as to the office building. The allowance of an offset against Mr. Olsen's interest by Mr. Wallis paying the Nanney note and the denial of any income to Olsen for Mr. Wallis' profitable

commercial use of the office building is alone a disparate treatment of the parties without justification. Denying interest on a sum which should have been paid is simply compounding the unfairness to Mr. Olsen. Interest should have been awarded to Mr. Olsen on the rent Mr. Wallis should have been ordered to pay between 2000 and 2012.

The arbitrator and the Court also denied interest between December, 2012 and the date of the judgment on rent it found due on both properties. There appears to be no justification for this finding which is just more punitive action against Mr. Olsen and more windfall in favor of Mr. Wallis.

Most of the litigation of the case involved the issue of adverse possession by Wallis. The arbitrator, and therefore the Court, made no finding of adverse possession. Mr. Olsen was the prevailing party on the adverse possession issue. RCW 7.28.083(3) provides:

> (3) The prevailing party in an action asserting title to real property by adverse possession may request the court to award costs and reasonable attorneys' fees. The court may award all or a portion of costs and reasonable attorneys' fees to the prevailing party if, after considering all the facts, the court determines such an award is equitable and just. "This act applies to actions filed on or after July 1, 2012.

Mr. Olsen should have been awarded some legal fees for his prevailing on the issue of adverse possession. The issues in this appeal are likewise devoted in part to the question of adverse possession. The lack of an

ouster, Mr. Wallis' possession of the office building and receipt of the rental income on the house are all pivot points for all of the issues raised in this appeal. Also, any support of this disparate ruling appears to be based upon the concept Mr. Wallis did adversely possess. Otherwise there is no rational justification of his paying no rent for use of the office building and being able to keep to himself all of the rent for the rental house. Therefore this Court should make some award of fees to Mr. Olsen pursuant to the cited statute. The denial of fees is another item to add to the long list of why this case is facially unfair.

CONCLUSION

The denial of the share of the rent on the rental property, plus the divestment of the office building, plus the denial of rent on the office building while Olsen could not use it (after the Nanney note was paid), plus the ruling on the interest on rent, are, together fundamentally and grossly unfair to Mr. Olsen. These rulings are punitive to Mr. Olsen while giving Mr. Wallis a windfall. If the ruling denied only one of these items perhaps it could be argued that in the exercise of discretion the award was one-sided but not capricious. The case was primarily about adverse possession and Mr. Olsen, who prevailed on that, should have been awarded reasonable legal fees. Taken together any objective view must see how Mr. Olsen was unfairly mistreated. This combined result is

arbitrary, capricious and a denial of substantive due process. This is grounds to void an arbitrator's award and judgment thereon. The substantial issue of adverse possession in this appeal should justify some award of legal fees for the appeal. Fairness is justice. So much of the decisional law leaves a reader believing distinctions are found to justify a result. Hopefully this is Appellate Courts sensing an injustice and finding a legitimate rationale for ensuring justice. Hopefully this phenomena is not an process motivated by things like ease of administration of justice. Fairness deserves being difficult, probing and time consuming. The people our system serves deserve fairness in each individual case. The unfairness of the treatment of the Olsens overall was gross and any objective person should see that. The ruling absolves Mr. Wallis, the co-owner of almost any duty in the matter, at great profit to him. Finding a characterization, categorization or some technical "rule" should not lead to the denial of what is fair. The case should be remanded for a trial on the merits.

Respectfully submitted this 22nd day of July, 2016.

Donald N. Powell, WSBA #12055
Lawyer for Appellants Olsen

COURT OF APPEALS DIVISION II OF WASHINGTON

MARVIN OLSEN and YONG IM OLSEN,husband and wife, Petitioners, v. H. GARY WALLIS AND MONIQUE A. WALLIS, husband and wife, Respondents.	**NO.** 48654-7-II CERTIFICATE OF SERVICE OF APPELLANT'S BRIEF

I, Donald N. Powell, attorney for petitioners, certify that on the 22th day of July, 2016 I caused a true and correct copy of the Appellant's Brief gnation of Clerk's Papers and Statement of Arrangments to be served on Christopher M. Huss, 4224 Waller Road East, Tacoma, WA 98443, Email: cmh@tucciandsons.com, by email pursuant to our agreement to serve and accept service by email.

DATED this 22nd day of July, 2016

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COURT OF APPEALS DIVISION II OF WASHINGTON

MARVIN OLSEN and YONG IM OLSEN, husband and wife, Petitioners, v. H. GARY WALLIS AND MONIQUE A. WALLIS, husband and wife, Respondents.	**NO.** 48654-7-II AMENDED CERTIFICATE OF SERVICE OF APPELLANT'S BRIEF

I, Donald N. Powell, attorney for petitioners, certify that on the 22th day of July, 2016 I caused a true and correct copy of the "Appellant's Brief" to be served on Christopher M. Huss, 4224 Waller Road East, Tacoma, WA 98443, Email: cmh@tucciandsons.com, by email pursuant to our agreement to serve and accept service by email.

DATED this 22nd day of July, 2016

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